



Memorandum

TO: PLANNING COMMISSION

FROM: Stephen M. Haase

SUBJECT: Supplemental Memo
for File No. CP04-043

DATE: November 29, 2004

File No.: CP04-043. Conditional Use Permit request to allow wireless communications antenna on the rooftop and associated equipment cabinets on the ground floor of an existing church on a 3.55 gross acre site.

BACKGROUND

The project was initially scheduled for hearing on October 27, 2004 but was deferred at the request of the applicant. The applicant has revised the project since then. The present memo reflects the proposed changes and staff recommendation on the basis of those changes. The original staff report is also attached for reference.

The applicant, Metro PCS, is requesting a Conditional Use Permit to allow the installation of an unmanned wireless communication facility consisting of an accelerator antenna and three associated equipment cabinets on the site of the Iglesia Bautista White Road Baptist Church located at 480 S. White Road. The accelerator antenna will be mounted inside a radio frequency "transparent" cross to be placed on the rooftop. The equipment shelter will be located in the external hallway near the west corner of the building. The subject site is located within R-1-8 Residence Zoning district. The Zoning Ordinance requires a Conditional Use Permit for installation of wireless communication antennas in the R-1-8 Residence Zoning District.

The subject site is entirely surrounded by single-family residences. Lyndale Elementary school is located to the south of the subject site.

In 1996, San Jose planning staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health hazard. Staff found that the low-frequency, low energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pacemakers, and other electronic devices. Staff determined that the reported interference resulted from cordless telephones and not from antennas.

Project Description

The proposed project consists of installation of (1) one wireless communications accelerator antenna mounted within a 15-foot 6-inch high cross on the roof of an existing church and (2) associated ancillary equipment cabinets located on the floor of the perimeter pathway at a 3.55 gross acre site. The subject site contains the Iglesia Bautista Church building used for worship and other buildings used for school or office purposes. The cross will be installed on top of the roof of the church building, on the north-east end of the roof, at a horizontal distance of 144-feet 5-inches from the south-east corner of the front property line as shown on the plan set. A photographic simulation has been provided to illustrate the appearance of the building before and after installation of the proposed cross and antenna.

The equipment enclosure will be located on the ground floor, on a perimeter pathway along the external walls of the sanctuary building, at a horizontal distance of 45-feet 6-inches from the north-west corner of the front property line as shown on the plan set. The cross will be made of fiberglass epoxy and the screening for the equipment will be made with plywood with stucco. Both the cross and the equipment screening will be painted to match the building.

ENVIRONMENTAL REVIEW

The proposed project is exempt from environmental review under Section 15301 of the California Environmental Quality Act Guidelines because it consists of a minor alteration of an existing structure.

GENERAL PLAN CONFORMANCE

The subject site is designated Medium Low Density Residential (8 DU/AC) on the San José 2020 General Plan Land Use/Transportation Diagram. The proposed project conforms to the General Plan in that the 3.55 gross acre site contains an existing religious assembly facility, which is a Public/Quasi Public use and wireless communications facilities are consistent with this General Plan designation.

ANALYSIS

The project was analyzed to determine its conformance to (1) Title 20 of the San Jose Municipal Code: the Zoning Ordinance and (2) City Council Policy 6-20, Land Use Policy for Wireless Antennas, which provides criteria for siting wireless antenna facilities.

Conformance to the Zoning Ordinance

The parcel on which the project is proposed is located in R-1-8 Residence Zoning District. Installation of building-mounted wireless antennas is permissible in the R-1-8 Residence Zoning District with a Conditional Use Permit.

Setback. The location of the proposed antenna and equipment conform to the required setbacks of the R-1-8 Residence Zoning District. The required setbacks as per Zoning Ordinance are: 25 feet on the front, 5 feet on sides and 25 feet on the rear. The proposed antenna/cross is located on top

of a building that has approximately the following set backs: 41 feet on the front, 69 feet 2 inches on south-east side, 29 feet 8 inches on north-west side and 563 feet on the rear.

Height. Height of the antenna conforms to the Zoning Ordinance. Maximum permissible height of a building/structure in R-1-8 district is 35 feet. However, exceptions for wireless antennas are permissible under Section 20.80.1900 of the Zoning Ordinance. This section specifies that the height of a building-mounted wireless communication antenna may be increased over the required maximum height of the zoning district in which it is located provided that all of the following criteria are met:

1. The overall height of the building or structure, including antennas, does not exceed sixty (60) feet, or the increase in height does not exceed 35% of the existing building or structure, whichever is less; and
2. The antenna is architecturally integrated into the building and all ancillary equipment is adequately screened; or
3. The antenna does not add to the visual clutter of the building or structure.

The height of the existing building is 30 feet. The cross projects 10 feet 6-inches above the parapet – which is 35% of the building height. Thus it conforms to condition (a) above.

The antenna is hidden within a cross on top of a church and is architecturally integrated into the building. Additionally, all ancillary equipments will be screened from view. Therefore, the antenna does not add to the visual clutter of the building.

Conformance to the City Council Policy 6-20, Land Use Policy for Wireless Communication Facilities

The proposed project is consistent with the Council Policy 6-20 with regard to location, visual impact, and setback from residential uses. The policy strongly encourages placement of antenna installations within new or existing buildings and specifies that they be architecturally integrated and set back from residential property by 35 feet. The Council Policy also specifies that ancillary equipment must be adequately screened. Additionally, no existing parking should be displaced by wireless antenna facility.

The proposed antenna is to be located within a proposed cross and will be installed on top of an existing church building which is at least 35 feet from all surrounding residences. The antenna will be approximately 84 feet away from the nearest residential property. The antenna and the screening for the equipment will all be painted with a color that matches the building.

The equipment shelter measuring 8 feet x 12 feet is proposed to be placed along the external wall of the church sanctuary on the south-west part of the site, on the floor of a covered perimeter pathway. A condition of approval is proposed to require construction of new pathway around the shelter and to provide additional landscaping. Constructing a new pathway around the shelter will ensure that pedestrian traffic will not be inconvenienced. Providing landscaping will reduce visual impact of the equipment shelter. The proposal does not displace any parking.

Based on the above analysis, staff concludes that the proposed project conforms to the Council Policy for wireless communication facilities and is compatible with the surrounding neighborhood.

PUBLIC OUTREACH

Notices to the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to answer questions on the project from the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8.0 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The proposed project conforms to the General Plan in that (a) the 3.55 gross acre site contains an existing religious assembly facility, which is a Public/Quasi Public use and wireless communication facilities are consistent with this General Plan designation.
3. The project site is located in the R-1-8 Residence Zoning District. Wireless antenna facilities are allowed in a residential zoning district with a Conditional Use permit.
4. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.
5. Single-family detached residential uses and a school surround the subject site.
6. The residential property closest to the antenna is approximately 84 feet away from the antenna.
7. The project proposes to install one wireless communications antenna within a proposed rooftop cross at the north-east end of the church building on the Iglesia Bautista White Road Baptist Church site on east side of South White Road, approximately 300 feet southerly of East Hills Drive.
8. The proposed cross will be 15 feet 6 inches in height from the surface of the roof, 10 feet 6 inches above the parapet, within a 35 percent increase of the existing building height of 30 feet which conforms to the Zoning Ordinance.

9. The ancillary equipment shelter is proposed to be located 45 feet 6 inches north-easterly of the proposed cross, along the external wall of the church sanctuary on the south-west part of the site, on the floor of a covered perimeter pathway.
10. This installation of antenna and equipments will not remove any parking spaces.
11. The cross and the enclosure screens for ancillary equipments will be painted to match the building.
12. The permit contains requirements to allow the co-location of other future antenna uses on the proposed structure.
13. The proposed antenna will be located a minimum of 35 feet horizontally from adjoining single-family residences.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. Although the site is designated Medium Low Density Residential (8 DU/AC), the project is consistent with the adopted San José 2020 General Plan in that the site contains an existing religious assembly facility, which is a Public/Quasi Public use and wireless communication facilities are consistent with this General Plan designation.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project complies with the applicable criteria of City Council Policy 6-20, Land Use Policy for Wireless Communications Facilities.
4. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit and Development Exception shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Landscaping.** The applicant will work with the Planning Staff to design suitable landscaping around the equipment shelter in order to minimize visual impact of this shelter on passers by along S. White Road.
3. **Revised Plans.** The applicant will submit revised plans that reflect the changes in landscaping and pathway construction to the satisfaction of the Planning Staff. The plans will be entitled, "Iglesia Bautista 480 S. White Road, San Jose, SF07140A ," dated September 16, 2004 and will incorporate the final date of revision.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans to be filed with the Department of Planning, Building and Code Enforcement in conformance with **Condition 3** above, and to the San José Building Code (San José Municipal Code, Title 24).

2. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Colors and Materials.** All colors and materials are to be those specified on the approved plan set.
5. **Cross.** The cross shall be painted a color that matches the exterior color of the existing building.
6. **Screen for Ancillary Equipment.** The screen for ancillary equipment shall be painted a color that matches the exterior color of the existing building.
7. **Construction of Pathway.** The Applicant will construct a new pathway around the equipment shelter so as to maintain continuity of the pathway around the building. Width and elevation of the pathway should match the existing pathway.
8. **Maintenance of Pathway.** The pathway in front of the equipment shelter shall always be kept litter-free and unobstructed so that no inconvenience is caused to pedestrians.
9. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
10. **Lighting.** The applicant will provide arrangement for any light that may be needed for safety of the new pathway to be constructed. This permit allows no other on-site lighting.
11. **Outside Storage.** This permit allows no outside storage.
12. **Sign Approval.** This permit approves no signs. All proposed signs shall be subject to approval by the Director of Planning.
13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP04-043, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
14. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.

15. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
16. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location wireless antennas for other providers. The Director of Planning shall review any changes to the approved design necessary to accommodate other providers.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Chapter 20.100.190 of Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

STEPHEN M. HAASE
Secretary, Planning Commission

Attachments:
Plan Set
Photosims